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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 120814338-2711-02]

RIN 0648-BE10

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Biennial Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; inseason adjustments to biennial groundfish management measures.

SUMMARY: This final rule announces an inseason change to management measures in the Pacific Coast groundfish fishery. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (PCFMP) and the Northern Pacific Halibut Act, implements changes to the incidental retention allowance for halibut in the limited entry fixed gear sablefish primary fishery.

DATES: Effective 1200 hours (local time) [insert date of filing for public inspection by the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew (West Coast Region, NMFS), phone: 206-526-6147, gretchen.hanshew@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Website at <http://www.gpo.gov/fdsys/search/home.action>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

Background

The PCGFMP and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subparts C through G, regulate fishing for over 90 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Council), and are implemented by NMFS.

The International Pacific Halibut Commission (IPHC) establishes total allowable catch (TAC) amounts for Pacific halibut each year in January. Under the authority of the Northern Pacific Halibut Act, and implementing regulations

at 50 CFR 300.63, a catch sharing plan, developed by the Council and implemented by the Secretary, allocates portions of the annual TAC among fisheries off Washington, Oregon, and California.

Pacific halibut is generally a prohibited species for vessels fishing in Pacific coast groundfish fisheries, unless explicitly allowed in groundfish regulations and authorized by the Pacific halibut catch sharing plan.

In years where the Pacific halibut TAC is above 900,000 lb (408.2 mt), the catch sharing plan for Pacific halibut fisheries in Area 2A (waters off the U.S. West coast) allows the limited entry fixed gear sablefish primary fishery an incidental total catch allowance for Pacific halibut north of Pt. Chehalis, WA (46°53.30' N. lat.). The 2014 Pacific halibut Area 2A TAC is 960,000 lb (435.45 mt). Therefore, consistent with the provisions of the catch sharing plan, the limited entry fixed gear sablefish primary fishery is allowed an incidental total catch limit of 14,274 lb (6,474 kg) for 2014.

Historically, incidental halibut retention in the primary sablefish fishery has started in May. In the fall of 2012, the Council expressed interest in changing the starting date for halibut retention to the beginning of

April, to reduce the amount of incidentally caught halibut that would be discarded prior to May. This change could not be implemented in 2013 because it required a change to the IPHC's regulations regarding the application date for submitting license applications. At its annual meeting in January 2014, the IPHC changed its license application deadlines so that individuals wishing to retain halibut in the sablefish primary fishery could receive their IPHC licenses prior to the commencement of the fishery (March 12, 2014, 79 FR 13906). Therefore, NMFS is now issuing this inseason change to the groundfish regulations to allow for incidental halibut retention starting in April.

Changing the starting date of halibut retention is expected to result in improved access to the halibut quota for this fishery. Total catches in 2012 and 2013 were well below the allocations for those years. The 2014 total catch limit is lower than what has been available to the sablefish primary fishery in recent years (2012-13). However, total catches in 2012 and 2013 were well below the new, lower, 2014 allocation. In 2012 total catch of Pacific halibut in the sablefish primary fishery was only 4,400 lb (1,996 kg) and the 2013 total catch was 12,000 lb (5,443 kg). NMFS notes that, given the recent total catch levels,

liberalizing the incidental catch restrictions is anticipated to allow total catch of Pacific halibut to approach, but not exceed, the 2014 allocation for the sablefish primary fishery.

The Council considered the dates and catch ratio established in the groundfish regulations at 50 CFR 660.231 at its first opportunity following the IPHC's decision to change its license application deadline and its decision on the 2014 TAC, the March 2014 meeting. The Council considered options to: increase the amount of time the incidental catch ratio in the sablefish primary fishery is in effect; and whether or not to revise the catch ratio. These options were developed to allow incidentally caught halibut to be retained, while keeping total catch below the 2014 Pacific halibut allocation. Because catches in 2012 (4,400 lbs) and 2013 (12,000 lbs) were below the allocation for 2014 (14,274 lbs), the Council recommended maintaining the 2013 catch ratio in 2014 with a one month earlier start date, (April 1 rather than May 1).

In order to allow incidental halibut catch in the sablefish primary fishery to begin on April 1, rather than May 1, the Council recommended and NMFS is implementing incidental halibut retention regulations at 50 CFR 660.231

(b) (3) (iv) to allow the catch ratio of "75 lb (34 kg) dressed weight of halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 75-pounds-per- 1,000-pound ratio per landing" to be in effect "From April 1 through October 31."

The retention limits for halibut were not revised as part of the 2013-2014 harvest specifications and management measures because the Pacific halibut TAC is developed each year based on the most current scientific information, and the TAC for 2014 was not determined until the IPHC meeting in January, 2014.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP and its implementing regulations. The adjustment to the halibut incidental catch restrictions in the limited entry fixed gear sablefish primary fishery is taken under the authority of the Magnuson Stevens Act, based on actions taken under the Northern Pacific Halibut Act and implementing regulations, and is consistent with the approved catch sharing plan.

This action is taken under the authority of 50 CFR 660.60(c) and is exempt from review under Executive Order 12866.

The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, West Coast Region, NMFS, during business hours.

For the following reasons, NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under 5 U.S.C. 553(b) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective [insert date of filing for public inspection by the FEDERAL REGISTER].

As described above, this inseason action is based on information that became available very recently. The changes to the incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA (46°53.30' N. lat.), and the subsequent proposed management measure changes are based in part on decisions made by the IPHC at its January 2014 meeting. At that meeting, the IPHC

determined the 2014 halibut TAC based on the most current scientific information regarding the status of the halibut stock, and changed its licensing deadline to accommodate an earlier start date for retention of incidentally caught halibut in the sablefish primary fishery. Based on those actions, the Council made its final recommendations at its March 8-13, 2014 meeting. The Council considered the public comments on this matter and recommended that these changes be implemented by April 1, 2014. There was not sufficient time after that meeting to complete notice and comment rulemaking before these changes need to be in effect. For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent NMFS from managing fisheries using the best available science to approach, without exceeding, allocations accordance with the PCGFMP, the Northern Pacific Halibut Act, and other applicable laws. The adjustments to management measures in this document affect commercial fisheries off Washington State. These adjustments to management measures must be implemented in a timely manner, by April 1, 2014 or as quickly as possible thereafter, to allow incidental catch of halibut in the sablefish primary fishery, reducing regulatory discards,

while keeping total catch below the 2014 halibut Area 2A allocation.

No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established for 2013-2014.

Accordingly, for the reasons stated above, NMFS finds good cause to waive prior notice and comment and to waive the delay in effectiveness.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: April 4, 2014

James P. Burgess,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660--FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq., 16 U.S.C. 773 et seq., and 16 U.S.C. 7001 et seq.

2. In § 660.231, paragraph (b)(3)(iv) is revised to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(iv) Incidental halibut retention north of Pt. Chehalis, WA (46°53.30' N. lat.). From April 1 through October 31, vessels authorized to participate in the sablefish primary fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline gear north of Pt. Chehalis, WA (46°53.30' N. lat.) may possess and land up to the following cumulative limits: 75 lb (34 kg) dressed weight of halibut for every

1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional halibut in excess of the 75-pounds-per-1,000-pound ratio per landing. "Dressed" halibut in this area means halibut landed eviscerated with their heads on. Halibut taken and retained in the sablefish primary fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

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